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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **OAKLAND DIVISION**

12 UNITED STATES OF AMERICA, *ex rel.*
13 FELIPE A. PRIAST,

14 Plaintiffs,

15 v.

16 GENENTECH, INC., et al.,

17 Defendants.

RECEIVED

JUL - 7 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

FILED

JUL - 8 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Case No. C 2016-00927-SBA

**UNITED STATES' NOTICE OF
ELECTION TO DECLINE
INTERVENTION;
[PROPOSED] ORDER**

FILED UNDER SEAL

ORIGINAL

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Case No. C 3:16-00927-SBA

18 **UNITED STATES' NOTICE OF**
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18 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), The United States of
 19 America hereby notifies the Court of its decision not to intervene in this action.
 20

21 While a *qui tam* relator is generally permitted to maintain the action in the name of the
 22 United States following a declination, *see id.*, we respectfully refer the Court to *United States ex*
 23 *rel. Stoner v. Santa Clara County Office of Education*, 502 F.3d 1116, 1126-28 (9th Cir. 2007),
 24 in which the Court held that a *pro se* relator cannot prosecute a *qui tam* action on behalf of the
 25 United States under the False Claims Act. Accordingly, in this case, we respectfully suggest that
 26
 27
 28

NOTICE OF ELECTION TO DECLINE INTERVENTION; [PROPOSED] ORDER, C 3:16-00927-SBA

1 the Court dismiss the relator's First Cause of Action under the False Claims Act unless the
2 relator obtains counsel within 30 days of the date of the Court's Order.


3 The Government also requests that all previous filings in this action be unsealed and the
4 seal be lifted as to all matters subsequently occurring in this action.
5

6
7 Respectfully submitted,

8 BRIAN J. STRETCH
9 United States Attorney

10 Dated: July 7, 2016

11 By:


12 KIMBERLY FRIDAY
13 Assistant United States Attorney
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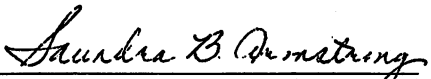
[PROPOSED] ORDER

IT IS HEREBY ORDERED THAT:

1. The United States having declined to intervene in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules that, unless the relator obtains counsel and counsel files a notice of appearance within 30 days of the date of this Order, the relator's cause of action under the False Claims Act will be dismissed pursuant to *United States ex rel. Stoner v. Santa Clara County Office of Education*, 502 F.3d 1116, 1126-28 (9th Cir. 2007).
2. The contents of the Court's file in this action shall be unsealed.
3. The seal shall be lifted as to all other matters occurring in this action after the date of this Order.

IT IS SO ORDERED.

Dated: 7/8/16


SAUNDRA BROWN ARMSTRONG
Senior United States District Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of:

**UNITED STATES' NOTICE OF ELECTION TO DECLINE INTERVENTION;
[PROPOSED] ORDER**

to be served this date upon the party(ies) as follows:

Felipe A. Priast
PO Box 54
Brisbane, CA 94005

Lindsey Catherine Barnhart
Covington Burling LLP
One Front St., 35th Floor
San Francisco, CA 94111

☒ BY FIRST CLASS MAIL, by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ BY PERSONAL SERVICE, (MESSENGER)

☐ FEDERAL EXPRESS

☐ BY E-MAIL: I caused each such document to be sent by email to the person or offices of each address above.

☐ CERTIFIED MAIL, by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this offices practice .

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED: July 7, 2016


TINA LOUIE
Legal Assistant